

September 7, 1950
Op. No. 50-332

Mrs. Geraldine Swift
Estate Tax Commissioner
Estate Tax Department
State House
Phoenix, Arizona

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ARIZONA ATTORNEY GENERAL

Dear Mrs. Swift:

We have your request for an opinion regarding our interpretation of that portion of Section 40-111 ACA 1939, as amended, providing for interest on estate taxes payable under the Arizona Estate Tax Act.

The question which you present involves a decedent who had a considerable amount of real property outside Arizona, and this necessitated a delay in closing the estate and filing the return with the Estate Tax Department within the time required by law. In accordance with Section 40-111, supra, the time for payment of the tax was extended to June 2, 1950 on which date an estate tax in the sum of \$1,669.35 was paid. The inquiry now is whether or not interest is due under the section, such extension for payment of the tax having been granted.

Section 40-111, supra, provides:

"Interest on tax.-- All taxes imposed by this act shall be due and payable at the death of the testator, intestate, grantor, donor, or vendor. In the event the tax is not paid within fifteen (15) months after the date of death, the tax shall bear interest at the rate of eight per cent (8%) per annum, computed from the expiration of one (1) year after the date of death, and if not paid within two (2) years, ten (10%) per cent per annum thereafter until paid. For good showing and upon order of the superior court having jurisdiction of the probate of the estate, the commissioner may extend the time for payment of the tax." (Laws 1937, ch. 27, § 11, p. 47; 1939, ch. 10, § 5, p. 14; 1949, ch. 16, § 2.)"

It would appear obvious that the reason for the extension of time for payment of the tax is to avoid the penalty of paying interest. In accordance with the general rule that interest on money runs from the time when the money becomes due and payable (30 Am.Jur., Interest, Section 46), a reasonable construction of the section calls for the conclusion that where an extension has been properly obtained the payment of interest is also deferred. Upon the expiration of the extension period, the tax then begins to bear interest in the manner provided by the statute.

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We regret our delay in answering your request.

Very truly yours,

FRED O. WILSON
Attorney General

RICHARD C. BRINEY
Assistant Attorney General

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